

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

LISA MINTON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:05-CV-878-C
)	(WO)
CULLIGAN WATER, INC.,)	
)	
Defendant.)	

ORDER

On September 14, 2005, the plaintiff filed this action naming Culligan Water, Inc. as the sole defendant. (Compl. at ¶ 8, p. 2) On October 11, 2005, Trumbull Bottled Water, Inc. d/b/a Culligan of the Wiregrass filed an answer denying the allegations of the complaint. (Doc. # 4). On November 15, 2005, the parties filed a Report of the Parties' Planning Conference. (Doc. # 8). In that document, the parties note that

Trumbull Bottled Water, Inc. is not a named defendant, but was served with the Summons and Complaint directed to the defendant designated "Culligan Water, Inc." Trumbull Bottled Water, Inc. does business in Dothan, Alabama as Culligan of the Wiregrass. Trumbull is not aware of nay entity named "Culligan Water, Inc."

(Doc. # 8, at 2, fn.1). On November 11, 2005, the court ordered the parties to show cause why Trumbull Bottled Water, Inc. d/b/a Culligan of the Wiregrass should not be substituted as the named defendant in this case. (Doc. # 11). On November 22, 2005, the plaintiff filed a response in which she indicated she had no objection the substitution of Trumbull Bottled Water as the named defendant. (Doc. # 14).

However, on November 30, 2005, Trumbull Bottled Water, Inc. d/b/a/ Culligan of the Wiregrass filed a motion to dismiss and response to the court's order. In the motion, Trumbull asserts that "[a]lthough it has answered the Complaint and participated in the required parties' planning meeting, Trumbull does not concede that it is a proper defendant in this case." (Doc. # 15). According, upon consideration of the motion to dismiss and response to the court's order, it is

ORDERED that on or before **December 12, 2005**, the plaintiff shall file a response to the defendant's motion to dismiss. It is further

ORDERED that oral argument on the defendant's motion to dismiss be and is hereby SET for **December 13, 2005 at 2:00 p.m.** This proceeding shall be conducted by telephone conference. The defendant shall set up the telephone conference.

Done this 2nd day of December, 2005.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE